

Report on the

Board of Examiners in Counseling

Birmingham, Alabama



Department of Examiners of Public Accounts

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July 27, 2011

Senator Paul Bussman
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Senator Bussman,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Alabama Board of Examiners in Counseling** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Alabama Board of Examiners in Counseling**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,



Ronald L. Jones
Chief Examiner

Examiner
Christine Parish

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PROFILE

Purpose/Authority

The Board of Examiners in Counseling operates under authority of the *Code of Alabama 1975*, Sections 34-8A-1 through 34-8A-24. The board is responsible for licensing and regulating the professional practice of counseling in Alabama.

<u>Characteristics</u>	
Members and Selection	<p>Seven members consisting of :</p> <ul style="list-style-type: none"> • Two counselor educators • Three counselors in private practice • Two citizens from the general public <p>Members are appointed by the governor from a list of two candidates selected by the executive committee of the Alabama Counseling Association or its successor agency. The appointments must be made within 45 days after the names of the candidates have been submitted. If the governor fails to make the appointment within the 45-day period, the executive committee of the Alabama Counseling Association, or its successor organization, must select a replacement member from among the two qualified candidates nominated to fill the unexpired term of a board member.</p> <p><i>Code of Alabama 1975</i>, Sections 34-8A-1 and 4</p>
Term	<p>Staggered five-year terms</p> <p><i>Code of Alabama 1975</i>, Section 34-8A-4</p>
Qualifications	<p>Counselor members must:</p> <p style="padding-left: 40px;">Be actively licensed, In practice for at least one year or teaching counseling at a regionally accredited institution of higher learning for at least three years immediately preceding appointment.</p> <p><i>Code of Alabama 1975</i>, Section 34-8A-4</p>
Racial Representation	<p>No statutory requirement. One Black member serving.</p>
Geographical Representation	<p>No specific statutory requirement</p>

Consumer Representation	<p>The board must include two members from the general public.</p> <p>Two members are serving</p> <p><i>Code of Alabama 1975</i>, Section 34-8A-4</p>
Other Representation	<p>The membership of the board shall be inclusive and reflect the racial, gender, urban/rural, and economic diversity of the state.</p> <p>A college or university shall have only one counselor educator representative as a member of the board at any one time.</p> <p>No more than one practitioner from the same practice setting or corporation shall be members of the board at any one time.</p> <p><i>Code of Alabama 1975</i>, Section 34-8A-4 (f)</p>
Compensation	<p>Each member receives \$300 compensation per day of board business, as approved by the board. Travel expenses are reimbursed in the same amount as provided for state employees.</p> <p><i>Code of Alabama 1975</i>, Section 34-8A-5</p>
<u>Operations</u>	
Administrator	<p>Walter H. Cox, Ed.D., Executive Director under 2-year contract with the board.</p> <p>Approved by State Personnel Department.</p> <p>Annual salary \$70,860.00 – Set by the board with the approval of the State Personnel Department. The total contract amount for the two year period may not exceed \$141,720.</p> <p><i>Code of Alabama 1975</i>, Section 34-8A-5(a)</p>
Location	<p>950 22nd Street North, Suite 765 Birmingham, AL 35203</p> <p>Office hours: Monday through Friday 8:00 – 4:00</p>

Examinations	<p>The board utilizes the National Counselors Examination for Licensure and Certification (NCE), a national computerized exam developed by the National Board for Certified Counselors (NBCC). The exam is administered and scored by Applied Measurement Professionals, Inc. Examinations are given monthly during a two-week time period at H&R Block testing centers in Athens, Birmingham, Huntsville, Mobile and Montgomery. The NBCC scores the examinations and returns the results to the candidate and to the board.</p> <table><tr><th>Year</th><th>Applicants</th><th>Pass*</th><th>Fail*</th></tr><tr><td>2007</td><td>75</td><td>40</td><td>35</td></tr><tr><td>2008</td><td>80</td><td>50</td><td>30</td></tr><tr><td>2009</td><td>77</td><td>48</td><td>29</td></tr><tr><td>2010</td><td>67</td><td>44</td><td>23</td></tr></table> <p>*Pass/Fail rates by Alabama Educational Institution are located in the Appendices of this report.</p> <p><i>Code of Alabama 1975</i>, Section 34-8A-7 and 10-11</p>	Year	Applicants	Pass*	Fail*	2007	75	40	35	2008	80	50	30	2009	77	48	29	2010	67	44	23
Year	Applicants	Pass*	Fail*																		
2007	75	40	35																		
2008	80	50	30																		
2009	77	48	29																		
2010	67	44	23																		
Licensees	<table><tr><td>Licensed Professional Counselor (LPC)</td><td>1,714</td></tr><tr><td>Associate Licensed Counselor (ALC)</td><td>303</td></tr><tr><td>Total Licensees</td><td>2,017</td></tr></table> <p>As of 2/20/11</p>	Licensed Professional Counselor (LPC)	1,714	Associate Licensed Counselor (ALC)	303	Total Licensees	2,017														
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Total Licensees	2,017																				
Reciprocity	<p>The board may issue a license to an applicant licensed in another state if the requirements for the out-of-state license or certification are substantially equivalent to Alabama’s requirements.</p> <p>If the board determines that applicant’s licensing requirements are not substantially equivalent to Alabama’s requirements, the board may issue a provisional license, renewable for one year, according to board rules.</p> <p>The board reviews the application for comparison of Alabama statutes and regulations to those in the other state at the time of the original issuance of the license.</p> <p><i>Code of Alabama 1975</i>, Section 34-8A-15</p>																				
License Renewals	<p>Licensed Professional Counselor – Biennially (July 31st)</p> <p>Associate Licensed Counselor – Annually on the anniversary of initial issuance. Expires if not renewed by the anniversary date.</p> <p><i>Code of Alabama 1975</i>, Section 34-8A-14</p>																				

Continuing Education	<p>Associate Licensed Professional Counselor – Minimum of 10 formal contact clock hours with a minimum of 2 clock hours devoted to ethical concerns.</p> <p>Licensed Professional Counselor – Minimum of 40 formal contact hours with a minimum of 6 clock hours devoted to ethical concerns.</p> <p>Effective August 1, 2011, a minimum of 75% of the continuing education activities must consist of real-time participation in seminars, workshops, presentations, training programs, or similar activities involving the licensee's presence in the location of the activity or use of interactive technology by the licensee as the activity occurs. Recorded presentations, reading, and online study do not qualify.</p> <p><i>Code of Alabama 1975</i>, Section 34-8A-14 Administrative Code 255-X-7.01 (4) and .02 (3)</p>
Employees	<p>1 unclassified merit system employee 5 contract employees</p>
Legal Counsel	Benjamin H. Albritton, employee of the Attorney General's Office
Subpoena Power	<p>Yes, both witnesses and records</p> <p><i>Code of Alabama 1975</i>, Section 34-8A-19</p>
Internet Presence	<p>www.abec.alabama.gov – contains</p> <ul style="list-style-type: none"> • Welcome page • Renewal application packages • Read capability of the enabling statutes and administrative code • Complaint information • Disciplinary actions • LPC application forms • ALC application forms • Listing of board members • Counseling links • Board contact information • NCE exam date page instructing to call board office • Board meeting dates • Fee schedule • Webpage statements/policies • Española • Translation disclaimer

	<ul style="list-style-type: none"> • ALC roster search • LPC roster search Links not yet operable: <ul style="list-style-type: none"> • Licensing FAQ's • Supervision • Newsletter
Attended Board Member Training	Executive director One board member
<u>Financial</u>	
Source of Funds	Licensure fees and fines.
State Treasury	Yes, Special Revenue Fund 0409 <i>Code of Alabama 1975</i> , Section 34-8A-19
Required Distributions	None
Unused Funds	Retains unused balances for subsequent years' expenditures. <i>Code of Alabama 1975</i> , Section 34-8A-6

SIGNIFICANT ISSUES

2011-01 The percentage of students at four of the fifteen Alabama universities failing the licensing examination for counseling ranged from 55% to 73%. Alabama State University's failure rate over the last four years was 73% (8 of 11 examinations failed); Jacksonville State University's failure rate over the same period was 59% (42 of 71 examinations failed); the University of South Alabama's failure rate over the same period was 55% (12 of 22 examinations failed), and the University of West Alabama failure rate over the same period was 60% (3 of 5 examinations failed).

2011-02 The responses from licensees to the question, "Do you think any of the Board's laws, rules, and policies are an unnecessary restriction on the practice of your profession?" indicate licensees do believe there are unnecessary restrictions on the practice of counseling. Nine of thirty-eight respondents (23.7%) answered 'yes' to this question. Nine respondents made comments. Most of the comments (4 of 9) were directed at the requirement of face-to-face continuing education. The responses from licensees to the question 'Do you think any of the Board's requirements are irrelevant to the competent practice of your profession?' indicate licensees do believe some requirements are irrelevant to the competent practice of the profession. Nine of thirty-eight respondents (23.7%) answered 'yes' to this question. Eight respondents made comments of which three were directed at the requirement of face-to-face continuing education.

By rules 255-X-7-.01 (e) for the licensed professional counselor and 255-X-7-.02 (e) for the associate licensed counselor, the board requires a minimum of 75% of the continuing education activities be real-time participation either by actual presence of the licensee or use of interactive technology by which the licensee can participate as the activity occurs. Recorded presentations, reading, and on-line study do not qualify as real-time participation.

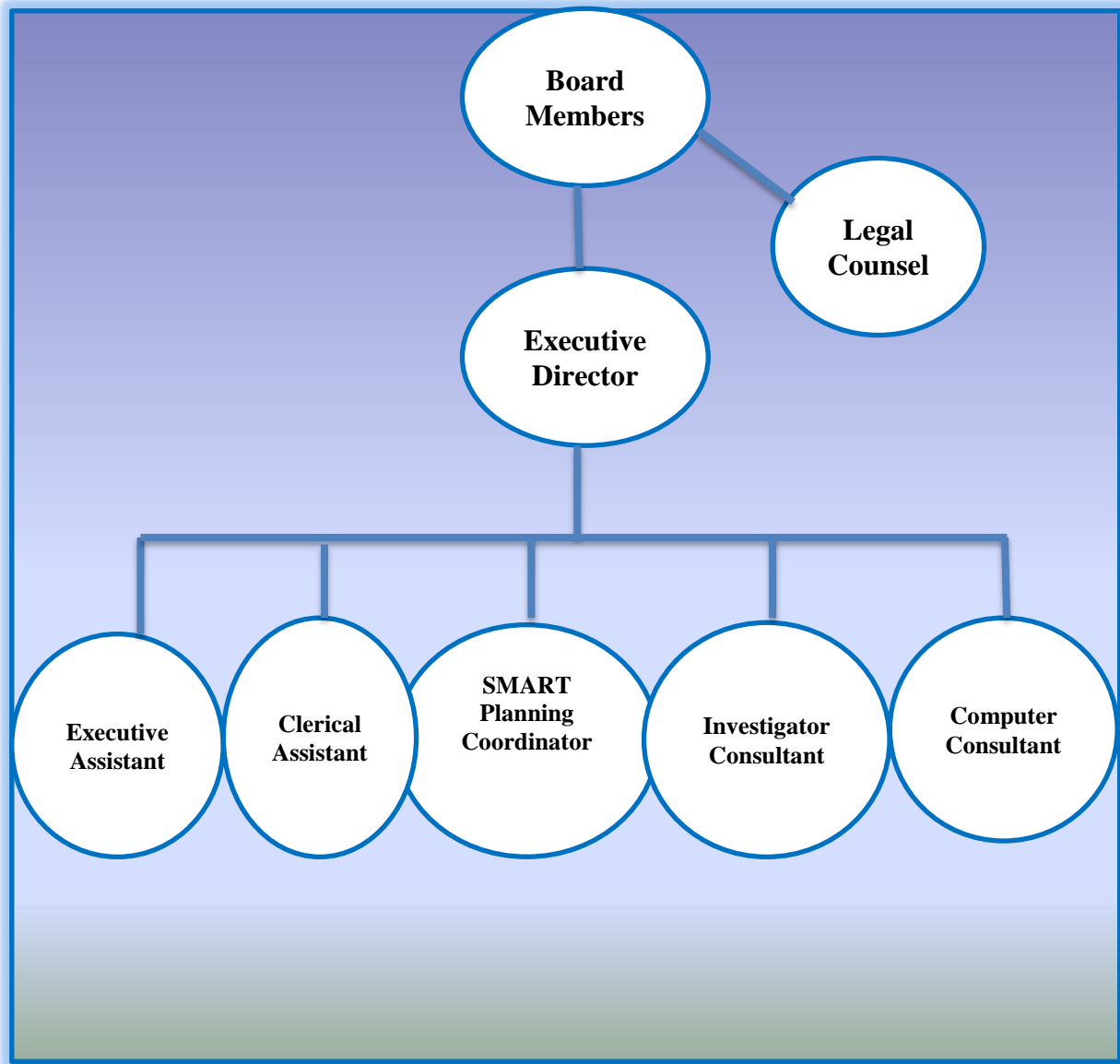
2011-03 The response from licensees to the question, "What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board doing to address the issue(s)?" indicate licensees are concerned about the need of insurance providers to recognize, accept, and make payment for the services of counselors same as other health professionals. Eleven of thirty-eight respondents (29%) made comments regarding reimbursement of third party payments, insurance reimbursement, and Medicaid reimbursements. One respondent mentioned the need of a social worker, psychologist or psychiatrist to sign off on the session before insurance would pay for the service. This respondent also stated there is a need for legislation and to work with insurance companies to recognize the professional nature of the therapy provided as mental health treatment and to require or encourage insurance companies to reimburse for services provided by an ALC/LPC Counselor.

2011-04 The responses from complainants to the question 'Did the Board communicate the results of investigating your complaint to you?' indicate the board did not routinely advise the complainant of the results of the investigation. Five of twelve responding complainants (41.7%) answered 'no' to this question. According to board staff, the complainant is notified of the results of the board's actions by letter when the case is closed, which states that board has taken necessary action or finds no cause and case has been closed. Board records indicate that notification letters are sent.

STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES

There were no prior findings/significant issues.

ORGANIZATION



PERSONNEL

The board employs six persons, consisting of one unclassified merit system employee and five part-time contract employees.

Schedule of Employees

Title	Number	Race	Gender	Classification
Executive Officer	1	W	M	Part-time Contract
Computer Consultant	1	W	M	Part-time Contract
Investigator/Consultant	1	W	M	Part-time Contract
SMART Budget Planning Coordinator	1	W	F	Part-time Contract
Clerical Assistant	1	W	F	Part-time contract
Executive Assistant	1	W	F	Merit/Unclassified
Total	6			

Legal Counsel

Benjamin H. Albritton, an employee of the Attorney General's office, provides legal counsel to the board.

PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee as of February 2011 – 336

Number of Persons per Licensee in Alabama and Surrounding States

	Population (estimate)*	Licensees	Persons Per Licensee
Alabama	4,779,736	2,017	2,457
Florida	18,801,310	7,212	2,607
Georgia	9,687,653	4,314	2,246
Mississippi	2,967,297	1,000	2,967
Tennessee	6,346,105	1,431	4,435

**U.S. Census as of July 2010*

Operating Disbursements per Licensee (2009-10) - \$156.64

Notification to Licensees of Board Decisions to Amend Administrative Rules

The board complied with notification procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. Licensees are notified of proposed changes via a postcard that tells them the proposed changes are on the agency's website.

COMPLAINT HANDLING

The board's Administrative Rules 255-X-8-.01 through 255-X-8-.06 provide the procedures for documentation, receipt, and investigation of complaints received by the board. Most complaints concern code of ethics violations by licensees, usually as a result of child custody disputes. The board does not have jurisdiction over persons not currently licensed by the board. If a complaint is directed at someone previously licensed by the board who is currently licensed in another state, the complaint is forwarded to the other state, and the complainant is informed of the action. Upon advice of legal counsel, unlicensed violators of the counseling licensing law are sent a cease and desist letter.

Complaint Procedures

Initial Documentation	<p>Filing a complaint can be initiated by the board or by any person by filing of the complaint in writing to the board's executive director. The complaint is directed to contain the name and address of the complaining party, a detailed description of the activities in which the offending party is alleged to have engaged, and evidence of when, where and how a violation occurred. The complaint must be signed.</p> <p>The board's website includes a downloadable/printable complaint form.</p>
Anonymous Complaints	<p>Anonymous complaints are not acted upon. (<u>Administrative Code, 255-X-8-.02</u>)</p>
Investigative Processes(s)	<p>The complaint is investigated by an investigative committee that consists of a board consultant, the board's executive officer, and one member of the board. The investigation is to determine whether there is probable cause for disciplinary proceedings.</p> <p>The investigating board member has no further involvement in the complaint, except as a witness.</p>
Probable Cause Determination	<p>If the investigative committee determines that probable cause exists, the board issues a summons and complaint and initiates a formal disciplinary proceeding. If the investigative committee determines that no probable cause exists, the proceedings are terminated.</p> <p>(<u>Administrative Code, Section 255-X-8-.03(1)(a)(b)(c)(d)</u>).</p>

Resolution without Formal Hearings	<p>The investigative committee may enter into informal settlements with the applicant, ALC, or LPC under investigation, provided the board ratifies the settlement.</p> <p>The board is authorized to issue written reprimands to licensees as an alternative to a formal hearing before the board.</p> <p>No less than two members of the board, one of whom must be a practitioner, along with the investigative committee, participate in deliberations leading to a written reprimand. All other members of the board remain available for possible appeal. The board's administrative rules state that the board shall not publish the written reprimand, unless required by law. A copy of the reprimand is entered into the permanent file of the licensee for a period of time determined by the investigative committee and the members of the board issuing the reprimand.</p> <p><u>(Administrative Code 225-X-8-.06(1))</u></p>
Formal Hearings	<p>If the investigative committee determines that probable cause exists for filing a summons and complaint, the board's attorney prepares the summons and complaint.</p> <p>The board may appoint a hearing officer at disciplinary hearings. If a hearing officer is appointed, the hearing officer assists the board in presiding at the disciplinary proceeding, and in ruling on all questions of evidence and procedure. <u>(Administrative Code Section 255-X-8-.03(2)(3)(4)).</u></p> <p>The board makes a determination specifying its findings of fact, and the results of proceedings, which are mailed to the applicant, LPC, or ALC. The board's decisions take effect immediately on promulgation, unless the board fixes a probationary period. The board may make public its orders and judgments as it deems proper, and for such periods as it may direct. The results of the board action become final thirty days following their entry, unless appealed. <u>(Administrative Code, Section 255-X-8-.01(12-15))</u></p>
Notification of Resolution to the Complainant	<p>The complainant is notified of the results of the board's actions by letter when the case is closed, which states that board has taken necessary action or finds no cause and case has been closed.</p>

Schedule of Complaints Received and Resolved

Fiscal Year/Number Received	Fiscal Year/Number Resolved				Pending	Average Days to Resolution*
	2007	2008	2009	2010		
2007 / # 12	12	0	0	0	0	147
2008 / # 21		21	0	0	0	238
2009 / # 8			8	0	0	154
2010 / # 16				14	2	160
(1) As of February 21, 2011						
Source of data: Board staff						
* Average Days to Resolution is reported as average 'Net Business Days'						

Disposition of Resolved Complaints

*Fifty-five complaints received from FY 2007 through FY 2010 were resolved as follows:

# of Complaints	Resolution
21	No Cause
11	License Suspension
6	No Jurisdiction
1	Complainant has No legal standing to Authorize Disclosure of Patient Confidential Records to the Board
10	License revoked
2	Cease and desist order issued
2	Complaint withdrawn
1	Complainant Unresponsive
1	Reprimand

*The number of complaints does not correspond to the number of licensees affected by the resolution. For example: one licensee may have had five (5) complaints resulting in his/her license suspension.

Average time to Resolve Complaints - 160 days as of 9/30/2010

REGULATION IN CONJUNCTION WITH OTHER ENTITIES

There is no direct shared regulation of professional counselors; however, the professional practice of psychiatry, psychology, counseling, marriage and family therapy, and social work is licensed and regulated, each by a separate Alabama board. These professions all address in some way improvement of the mental health of persons.

Additionally, the executive committee of the Alabama Counseling Association (ALCA) by law submits to the governor the names of qualified candidates for board vacancies. The Alabama Counseling Association is a state branch of the American Counseling Association (ACA), which serves as a network of professional counselors. Membership is open to all active ACA members and to all persons professionally engaged in guidance, counseling, or personnel activities in education, vocational, religious, rehabilitation, employment agencies, or other similar agencies.

SMART GOVERNING

We reviewed the board's performance goals and objectives as presented in the board's SMART reports for the 2010 and 2011 fiscal years and make the following comments.

2010 SMART Quarterly Performance Report

GOALS	COMMENTS
Resolve 40% of complaints within 180 days of receipt by fiscal year 2013.	The goal is appropriate; a target date and target level of performance is given.

OBJECTIVES	UNIT OF MEASURE	PERFORMANCE TARGET	REPORTED PERFORMANCE	COMMENTS
Percent of complaints resolved.	Percentage	15%	31.25%	Appears appropriate.

2011 SMART Quarterly Performance Report

GOALS	COMMENTS
Resolve 40% of complaints within 180 days of receipt by fiscal year 2013.	The goal is appropriate; a target date and target level of performance is given.

OBJECTIVES	UNIT OF MEASURE	PERFORMANCE TARGET	REPORTED PERFORMANCE	COMMENTS
Percent of complaints resolved.	Percentage	20%	N/A Year not yet complete	Appears appropriate

FINANCIAL INFORMATION

The board operates from Special Revenue Fund 0409, maintained in the State Treasury. The board receives its operating funds from licensing fees. The board cannot expend funds without an appropriation from the Legislature, and unexpended balances remain on hand for subsequent appropriation and expenditure.

Schedule of Fees

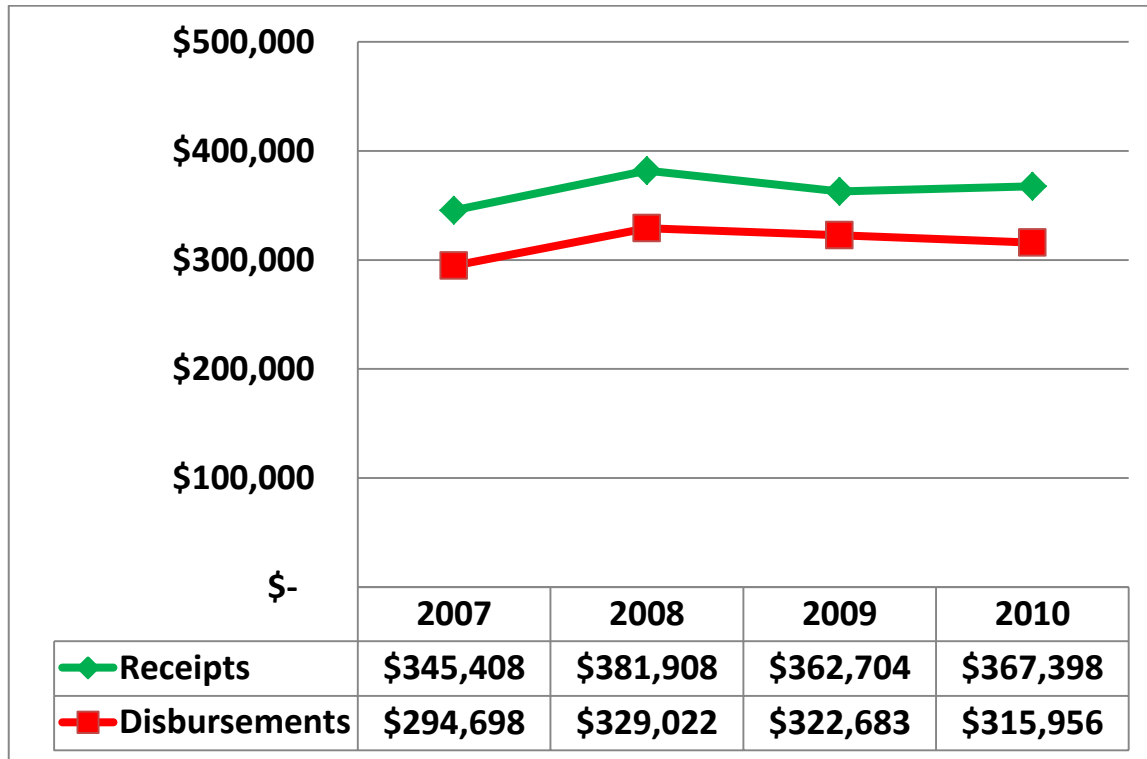
FEE	STATUTORY AUTHORITY	RULE	AMOUNT AUTH	AMOUNT COLLECTED
Application package fee	Section34-8A-6 (c)	255-X-1-.08	\$25	\$25
Application	Section34-8A-6 (c)	255-X-1-.08	\$200	\$200
Licensed Professional Counselor (LPC)	Section34-8A-6 (b)	255-X-1-.08	\$300	\$300
Associate Licensed Counselor (ALC)	Section34-8A-6 (b)	255-X-1-.08	\$150	\$150
LPC Renewal	Section34-8A-6 (b)	255-X-1-.08	\$300	\$300
ALC Renewal	Section34-8A-6 (b)	255-X-1-.08	\$150	\$150
Supervising Counselor Approval Processing fee	Section34-8A-6 (c)	255-X-1-.08	\$150	\$150
Examination fee	Section34-8A-6 (c)	255-X-1-.08	\$120	\$120
Duplicate or replacement license	Section34-8A-6 (c)	255-X-1-.08	\$15	\$15
Provisional license	Section34-8A-6 (c)	255-X-1-.08	\$150	\$150
License reactivation	Section34-8A-6 (c)	255-X-1-.08	\$50 a year not to exceed \$250	\$50 a year not to exceed \$250
Written license verification	Section34-8A-6 (c)	255-X-1-.08	\$25	\$25
Mailing labels	Section34-8A-6 (c)	255-X-1-.08	\$25	\$25

Schedule of Receipts, Disbursements and Balances

October 1, 2006 through September 30, 2010

	2009-2010	2008-2009	2007-2008	2006-2007
<u>Receipts</u>				
License fees	\$ 367,397.75	\$ 362,703.98	\$ 381,907.87	\$ 345,407.68
<u>Disbursements</u>				
Personnel Cost	195,363.47	195,357.61	191,947.81	173,629.11
Personnel Benefits	31,638.45	31,310.06	29,725.78	26,698.92
Travel In-State	10,581.50	12,484.14	12,879.36	7,252.54
Travel Out-of-State	16,523.86	19,870.50	15,530.79	15,759.43
Repairs and Maintenance	345.00	234.00	175.00	-
Rentals and Leases	28,800.07	30,208.28	31,132.95	29,774.02
Utilities and Communication	11,822.33	11,032.64	13,372.30	13,147.73
Professional Services	11,603.25	13,583.52	27,281.01	11,310.93
Supplies, Materials and Operating Exp	7,576.37	6,679.46	6,106.03	15,573.90
Equipment Purchases	1,701.25	1,922.42	870.53	1,551.00
Total	315,955.55	322,682.63	329,021.56	294,697.58
Excess of Receipts Over Disbursements	51,442.20	40,021.35	52,886.31	50,710.10
Cash Balances at Beginning of Year	780,116.17	740,094.82	687,208.51	636,498.41
Cash Balances at End of Year	831,558.37	780,116.17	740,094.82	687,208.51
Reserved for Year end Obligations	(12,669.28)	(17,425.74)	(23,561.48)	(19,284.16)
Unreserved Cash Balances at End of Year	\$ 818,889.09	\$ 762,690.43	\$ 716,533.34	\$ 667,924.35

Operating Receipts vs. Operating Disbursements (Chart)



QUESTIONNAIRES

Board Member Questionnaire

Questionnaires were sent to 7 **board members**. Five (5) responded.

1. What are the most significant issues currently facing the Board and how is the Board addressing these issues?

Respondent 1: “Counselors from non-accredited programs or formerly licensed in other states not meeting requirements for licensure.”

Respondent 2: “The growth of social networking and other forms of highly interactive interpersonal technology is challenging the traditional counseling boundaries and methods. The board remains vigilant about these changes and appears to take a flexible stance to adapting to new circumstances as needed.”

Respondent 3: “Communicating the journey from educational content through the certification process.”

Respondent 4: “The most significant issues currently facing the Board are: 1. individuals seeking licensure from other states. They are unable to produce adequate documentation to meet Alabama requirements and expect the board to find loopholes that will allow them to get licensed. 2. board safety has recently become a concern. There are no specific safety policies in place.”

Respondent 5: “Multiple issues.”

2. What changes to the Board's laws are needed?

Respondent 1: “I am not sure at this point. I am new to the board as of last year.”

Respondent 2: “Unknown at this time”

Respondent 3: “Our board basically has what it needs. Occasionally we have some tweaking to do.”

Respondent 4: “The laws are constantly being reviewed. The goal is to provide a set of laws with a language that leaves little ambiguity in terms of how it is interpreted. This is difficult and reveals the flaws in language.”

Respondent 5: “None other than the recent changes”

3. Is the Board adequately funded?

Yes	4	80.0%
No	0	0.0%
Unknown	1	20.0%
No Opinion	0	0.0%

4. Is the Board adequately staffed?

Yes	5	100.0%
No	0	0.0%
Unknown	0	0.0%
No Opinion	0	0.0%

5. Does the Board receive regular reports on the operations of the Board from the chief administrative officer?

Yes	5	100.0%
No	0	0.0%
Unknown	0	0.0%
No Opinion	0	0.0%

6. Has the Board experienced any significant changes to its operations?

Yes	0	0.0%
No	4	80.0%
Unknown	1	20.0%
No Opinion	0	0.0%

7. Does the Board plan any significant changes to its operations?

Yes	0	0.0%
No	5	100.0%
Unknown	0	0.0%
No Opinion	0	0.0%

8. Do you have any other comments you would like to make?

Respondent 2: “It would be beneficial if a preliminary agenda could be sent out in advance of meetings. While items often have had the review of the staff and consultants prior to the meeting. The board normally has no knowledge of items prior to the board meeting when decisions to be made regarding them. The time limits on board meetings often do not allow for contemplation of items.”

Respondent 3: “We must be diligent with our decision making and our monitoring.”

Respondent 4: “No”

Licensee Questionnaire

Questionnaires were sent to **100** licensed counselors. Thirty-eight (38) responded.

1. Do you think regulation of your profession by the Board of Examiners in Counseling is necessary to protect public welfare?

Yes	36	94.7%
No	1	2.6%
Unknown	0	0.0%
No Opinion	1	2.6%

Respondent 1: “Because LPC's are required to earn Continuing Education Credits (CEU's) keeping them current in the field.”

Respondent 11: “I value the regulation of my profession as a protection to clients, and also, protection to me and my profession.”

Respondent 16: “Unqualified persons practice which can be harmful.”

Respondent 19: “However, it is disconcerting that out of the 7 board members 4 of them are Doctors and not LPC's.”

Respondent 34: “Because of the type of work we do, unregulated and unlicensed counselors could potentially do great harm to a person in need of services.”

2. Do you think any of the Board's laws, rules, and policies are an unnecessary restriction on the practice of your profession?

Yes	9	23.7%
No	23	60.5%
Unknown	4	10.5%
No Opinion	2	5.3%

Respondent 1: “I respect the fact that ABEC is on par with the National Board of Certified Counselors (NBCC) regarding credentialing requirements.”

Respondent 9: “The new regulation making 80% of CEU's a face-to-face requirement will mean more travel expense, gas, hotel, food, etc. There are many online providers.”

Respondent 13: “The Board's recent rule limiting only 10 hours of non-face to face CEUs could be used toward the 40 hours of required CEUs is without any justification and is cost prohibitive for many counselors like myself who obtain the majority of CEUs on-line or by mail which is more cost efficient.”

Respondent 15: “Having to get 75% or our CEU's face to face, cost me more money and takes me away from my practice more than it should, given the fact that you can get quality CEU's online.”

Respondent 18: “I marked "unknown", as I'm not familiar enough (having a working knowledge of the rules and policies) to say that none of them place an unnecessary restriction.”

Respondent 20: “The requirement that all CEU's must have a NBCC provider number is unrealistic and other State Board's do not have this requirement, they can have other recognized National and State provider numbers to verify that training is valid.”

Respondent 23: “The LPC Board has an important role in overseeing the practice of counseling and in licensing counselors. This Board and its administrator; however, are very hard to work with and their rulings, requirements, and policies established have exceeded their role in regulating in a manner that provides safety for clients and have become a barrier to entry to the counseling profession. They have withheld licenses for periods of time from counselors without notice, established procedures that are not flexible enough to accommodate timely establishment and changes to supervision for Associate Licensed Counselors, and interact with counselors in a rigid unsupportive manner. Other regulatory boards in the State overseeing mental health professionals, for example Marriage and Family Therapist or Social Workers, have the same role established in state laws but implement their responsibilities in a with policies and rules that are more aligned with the circumstances and needs of the mental health professionals they supervise. Especially regarding the licensing process for new mental health practitioners working toward full licensure these other Boards function with procedures that do not become unnecessary restrictions with regard to supervision hours, establishing supervision, changing supervisors or supervisees in timely manner. Examples of unnecessary restrictions that the LPC board has imposed that other boards do not impose include the following: LPC Board restricts supervisors to only supervising a maximum of 5 supervisees at a time limiting the supply of supervisors and the availability of supervisors for supervisees. A supervisee has to have a Board approved supervisor in place prior to being issued a license and that process can take up to 3 months to establish and the supervisee must return their Associate Counselor License if any changes to the supervisor / supervisee relationship occur so the process of getting and retaining a supervisor restricts counselors working on obtaining supervised hours toward their license from changing supervisors in a timely manner and results in many counselors from not pursuing licensing but rather working only in Agency environments where no license is necessary.”

Respondent 25: “Excessive, costly hours of training that are in addition to degree required.”

Respondent 29: “It is unnecessary for restrictions for number of hours of self-study for continuing education.”

3. Do you think any of the Board’s requirements are irrelevant to the competent practice of your profession?

Yes	9	23.7%
No	27	71.0%
Unknown	2	5.3%
No Opinion	0	0.0%

Respondent 13: “Please refer to the above response. I am also concerned that in my 28 years as an LPC, Many of the Board's policy and rule changes seem capricious, arbitrary and with no reasonable justification!”

Respondent 15: “Why can't the renewal period be every 3-5 years?”

Respondent 18: “Again, the global wording of the question caused me to mark "unknown" - generally, the board's requirements are not irrelevant to our practice.”

Respondent 19: “Not being allowed to have more than 10 hours of CEU's on through the internet is ridiculous.”

Respondent 22: “the amount it costs to renew a license!!!!”

Respondent 23: “Some Board requirements are relevant to the competent practice of counseling when practiced in private practice. However, some requirements result in an impediment to more counselors pursuing licensure and thus placing themselves under the authority of the Board. The Board has adopted the ethical standards of the American Counseling Association and uses that association's tests as its benchmark test toward licensure, so these are Board requirements in that the Board adopts and applies these standards to counselors functioning as Licensed Counselors in the State. The Board's oversight process, disciplinary procedures, and application of the state law are relevant and necessary. Some Board requirements related training and supervising new counselors toward licensure may actually be a bottle-neck to the competent practice of counseling.”

Respondent 29: “continuing education restrictions for self-study”

Respondent 34: “Accountability is very important in this profession.”

4. Are you adequately informed by the Board of changes to and interpretations of Board positions, policies, rules and laws?

Yes	31	81.6%
No	5	13.1%
Unknown	2	5.3%
No Opinion	0	0.0%

Respondent 1: “However, the website can continue to be better utilized.”

Respondent 9: “Usually info is on the internet in a timely fashion, but the 2011 license renewal form/info is not yet available and it should be by this date - 2/11”

Respondent 12: “I haven't received any new information since being approved to receive supervision. I would have to answer this question as time progresses.”

Respondent 13: “I was not aware of the CEU changes mentioned previously until I was informed by mail that the requirements had been changed.”

Respondent 15: “They usually let you know of changes to late. I do not have time to give input and they are also often unclear about small changes, especially in you apply for your license in the middle of a licensing period (for example how many hours are prorated etc.)”

Respondent 16: “As far as I know.”

Respondent 23: “I cannot predict how the Board / staff will interpret their rules. I have tried and am frequently surprised and bewildered by how arbitrary and inconsistent the board / staff are in how they interpret their policies. The only time I am informed about a change or an interpretation by the Board or staff is after they have made a ruling on an issue regarding me. No information or reading the regulations or rules in advance has helped to predict what the Board / Staff will decide. Much of the "Policy" they follow is unpublished precedent or positions known only to the Staff/Board. They do apply laws and published rules to the letter of the law and are consistent in that, but provide little help to counselors seeking to understand how to plan in advance to be able to meet how the Board is likely to apply or interpret those rules or laws. Communication is after the fact and punitive in general. Attempts at informing only extend as far as saying the law /rule is changing please be aware of that fact, with little or no application of what the rule was before what it will be, what the best way to comply to the rule, what the likely consequences will be for the change, etc. Little help is given to help counselors in advance be able to understand policies, precedents, or help find the best means to be able to comply to their policies even when they know the issues a counselor may face in doing so.”

Respondent 31: “I do receive emails but cannot remember receiving any notifications regarding changes to policy. Interpretations of new policy would be helpful.”

Respondent 32: “I am informed but they are not clear nor is the reason for the changes stated.”

5. Has the Board performed your licensing and renewal in a timely manner?

Yes	35	92.1%
No	2	5.3%
Unknown	1	2.6%
No Opinion	0	0.0%

Respondent 1: “Very much so!”

Respondent 7: “It took approximately two months from application for the Board to issue my initial license.”

Respondent 12: “I'm not knowledgeable about their timeliness as it pertains to the renewal of licensure as of date.”

Respondent 19: “However, after paying 300.00 for my ALC and then qualifying for my LPC after 1 year I had to pay another 300.00. There is no grandfather rule.”

Respondent 23: “No they have withheld returning license without notification. They have cancelled meetings that delayed licensing.”

6. Do you consider mandatory continuing education necessary for competent practice?

Yes	34	89.5%
No	4	10.5%
Unknown	0	0.0%
No Opinion	0	0.0%

Respondent 1: “Absolutely - see comment #1 above.”

Respondent 8: “However, the ethics requirement could be a once every 4-6 year think rather than every licensing cycle.”

Respondent 11: “I am dual-licensed also as AL LMFT. I do like that the LMFT Licensing Board in the past few years has allowed us to simply list our biannual CEUs, with the caveat that if we are chosen among an audit group for that period, we will produce the certificates for our CEUs (otherwise, they are simply listing them on the renewal application). The notarizing of the renewal application of LPC has been a bit of a hassle, though in recent years, I have access to a notary in my building.”

Respondent 16: “this is critical for staying up to date and competent in any profession.”

Respondent 19: “Again, I believe that internet hours are sufficient. Only being allowed 10 hours through the internet is ridiculous. Internet hours require you to read material, comprehend the material and take a test on the material. It allows you to pick a subject you are interested in. I understand not wanting all of the hours to be internet but only 10 seem a bit restrictive.”

Respondent 20: “However, I do not believe that we should be restricted in the requirement of having a NBCC provider number, they should accept other provider numbers as do most other State Boards.”

Respondent 23: “Mandatory continuing education is necessary and important. 40 hours may be a bit much in 2 years, but it is acceptable.”

Respondent 29: “Approved educational material should all be approved for individual study without class attendance.”

Respondent 31: “That being said, the cost factor continues to be a problem for many therapists.”

Respondent 33: “Too many mandatory continuing ed hours, too expensive.”

Respondent 34: “Although sometimes difficult to obtain due to financial constraints, it does keep those of us who have been practicing for years up to date on current issues, particularly ethical and legal.”

7. Has the Board approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?

Yes	26	68.4%
No	8	21.1%
Unknown	3	7.9%
No Opinion	1	2.6%

Respondent 1: “Not ABEC necessarily, but the Alabama Counseling Association (ALCA) offers an annual state conference where CEU's can be obtained.”

Respondent 8: “But it is quite strange that the Alabama Dept. of Education is not automatically approvable.”

Respondent 9: “In all areas except ethics. We need more workshops on ethical practices since we are required to have hours in that area and rightly so.”

Respondent 11: “In recent years, that has begun to be less the case, and the hours are getting increasingly pricey. I very much seek out Con't Ed that is within a driving distance to avoid the extra expense of lodging. That is getting more difficult.”

Respondent 12: “At this time, I haven't received a lot of information pertaining to providers of continuing of education.”

Respondent 13: “On a number of occasions, I have wanted to attend relevant workshops approved by national professional organizations i.e. APA but because they were not approved by NBCC then I could not get CEUs recognized by the Board since the Board only recognizes NBCC approved CEUs. I considered this an unfair and indefensible restriction!”

Respondent 15: “But they could do a better job of letting us know who they are and allow us to get more of them online.”

Respondent 19: “There are not enough providers for the variety of subjects that I am interested in.”

Respondent 20: “This again is due to the restriction of the continuing education must have a NBCC provider which is very difficult to get and very expensive for an agency to acquire.”

Respondent 23: “Sufficient providers exist, but the Board has done nothing I know of to make counselor's aware of training, to work with organizations providing training to insure that the training is approved by NBCC for CEU's, nor to provide or sponsor Ethics training required by the Board 6 hours in two years. Counselors have the responsibility to find and participate in NBCC CEU providing training. All the Board does is require Counselors to send in proof of their training as part of License renewal and to object to the form of the CEU's sent in to them.”

Respondent 31: “I am not sure that I have received any "help" in regards to CEU's that are both relevant for my practice and yet cost effective.”

8. What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board doing to address the issue(s)?

Respondent 1: “Equal pay for services! We have a master's degree and starting pay is dismal (mid-30's). Better coordination with AL Dept. of Mental Health (providing case management vs. counseling services).”

Respondent 2: “Third party and Medicaid payments for professional counselors. Not certain about Board's actions in this matter.”

Respondent 3: “An LPC in Alabama is not recognized to the same degree that, for example, an LCSW would be in the area of qualifying to be a provider for some insurance companies. This is likely also a national issue, and may benefit from more lobbying.”

Respondent 4: “More widely accepted insurance reimbursement for services rendered by LPCs. I don't know what the ABEC is doing about it.”

Respondent 5: “LPC'S getting payment from BC/BS and TRICARE, and MEDICARE without hassle.”

Respondent 6: “High cost of license.”

Respondent 7: “Reciprocity in recognition of licensure with other states. I am unaware of the Board's actions regarding this important issue.”

Respondent 8: “The fact that LPC's employed by schools receive no extra compensation for their credential. I don't think the Board is addressing this at all.”

Respondent 9: “There are still individuals providing counseling services in areas that are not properly regulated. I don't know that the ABEC can do anything about this but I have reservations about some areas such as pastoral counseling offered to the general public without any apparent regulation.”

Respondent 10: “Adequate supervision (not just measured in 'hours' but quality) in cases involving inexperienced therapists. I am unsure what the Board does to address this issue.”

Respondent 11: “Staying current in the field with developing clinical treatments, keeping Cont Ed available, pertinent to those changing trends, and affordable. As a practitioner for approaching 20 years, keeping up and keeping sharp is important. It is also helpful to continue to have mentors and consultants/peers available, so as not to practice in isolation, if one is not practicing in an agency. I would like more info/links on the Board website about applicable con't ed in AL, and surrounding areas GA, FL, MI, TN already NBCC approved.”

Respondent 12: “I believe the most significant issue currently facing my profession in Alabama is having the opportunity to pursue a licensure within various State Agencies and it (time, training and financial contributions) being reimbursable. It seems that most agencies are placing more emphasis on reimbursing, hiring and training social workers than counselors. To me, this seems unfair because counselors provide a great deal of support to these agencies just as a social worker would. I'm unsure what the Board is doing to address this issue.”

Respondent 13: “Equal access by LPCs with all health insurance providers for reimbursement.”

Respondent 14: “No comment.”

Respondent 15: “The need for better insurance coverage is great in the State of Alabama. I am not sure what steps the board is taking to help with this matter.”

Respondent 16: “Ethical considerations are addressed by the Board requiring 6 hours of ethics training.”

Respondent 17: “Health Reform.”

Respondent 18: “Ensuring competency before granting licensure / towards granting renewals.”

Respondent 19: “I believe CEU's and being accused of ethics violations are the largest issues. I have explained my complaints related to CEU's above. Ethics violations- you are guilty until proven innocent. You are required to prove that you did not violate any code. This can take an enormous amount of time and energy. The board can take quite a bit of time in reviewing the information and coming back with a decision even if the accusations were false.”

Respondent 20: Parity, there are fewer of us out there practicing, not many students entering the field. Not sure what the Board is doing except making it more difficult for new people entering the field.”

Respondent 21: “More diversity in counseling profession I really have no idea what the Board is doing to increase diversity, to be honest.”

Respondent 22: “Not sure.”

Respondent 23: “Most significant issue facing Counseling in Alabama is that insurance companies will not accept therapy provided by an LPC or ALC as a clinical service to clients that qualifies for reimbursement under health insurance. In order for mental health services to be reimbursed by insurance companies or Medicaid or AL-kids the session must be signed off by a psychologist, a psychiatrist, or perhaps a Social Worker. Given that a large percentage of mental health therapy provided in Alabama is provided by ALC/LPC Counselors or Licensed Marriage and Family Therapists, legislation and work with insurance companies should be undertaken to recognize the professional nature of the therapy provided as mental health treatment and to require / encourage insurance companies to reimburse for services provided by an ALC/LPC Counselor.”

Respondent 24: “The repetitiveness of requiring review of HIPPA rules and regulations for every license renewal period.”

Respondent 25: “Keeping politics out of mandates.”

Respondent 26: “Monitoring the counseling profession to ensure counselors are providing competent ethical services.”

Respondent 27: “None.”

Respondent 28: “Need to get more insurance and employers to cover counseling with LPC's instead of insisting on being seen by psychiatrists and psychologists. I am not sure what the board is doing to help with this.”

Respondent 29: “Large insurance companies such as Blue Cross Blue Shield of Alabama will not pay LPC s for mental health services in an outpatient practice.”

Respondent 30: “No opinion.”

Respondent 31: “Marketing for private practitioners continues to be difficult. Insurance issues for private practitioners are a problem as many insurances do not allow first party reimbursement unless one is practicing under an MD or LP. I am not sure what the board is doing in this regard.”

Respondent 32: “I think the board needs to help with the issue of third party payments to L.P.C. as the psychiatrist and psychologist are the only providers that receive 3rd party payments, regardless of their level of expertise.”

Respondent 33: “Ethics, board requires ethics continuing ed hours.”

Respondent 34: “reimbursement or coverage for services (health insurance, Medicare, and others)”

Respondent 35: “Professional conduct.”

Respondent 36: “At this time I am not aware of any issues.”

Respondent 37: “Keeping those counselors who aren’t licensed from misleading the public (into believing that they are licensed professional counselors) i.e. monitoring their advertising practices.”

Respondent 38: “Ethics”

9. Do you think the Board and its staff are satisfactorily performing their duties?

Yes	27	71.0%
No	4	10.5%
Unknown	5	13.2%
No Opinion	2	5.3%

Respondent 4: “I’ve never had a pleasant experience with the Board office in over a dozen years of contact.”

Respondent 10: “I do not hear positive or negative comments about the Board.”

Respondent 15: “But access to forms, from the website and the renewal process could be made easier if less paperwork were required and we could submit CEU's, renewal forms etc. online without the need of a notary. Getting the notary is a waste of time.”

Respondent 23: “Yes and No. Yes, they are performing their duties under the law and administering oversight for the counseling profession. No, in that the policies they have established and the way they implement the policies is an impediment to encouraging the development of new counselors and to encouraging new counselors to become licensed.”

Respondent 32: “With the exception of Florence, who takes interest in the counselors and goes out of her way to be helpful, the rest of the board seems to maintain an adversarial stance as if they are trying to catch the counselors rather than be helpful. Florence should be made head of the board as she has had a great deal of experience in working with counselors and she maintains an attitude of respect and collegiality.”

Respondent 33: “Not friendly, not easy to talk to.”

10. Has any member of the Board or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a Board service for you?

Yes	0	0.0%
No	38	100.0%
Unknown	0	0.0%
No Opinion	0	0.0%

Respondent 1: “However, standard fees are high compared to GA (where I moved from), but requirements are much lower in GA as well.”

Respondent 15: “but I do feel that I have had to pay extra fee's at times, due to the way my renewal periods fell. For example I paid \$300 for an ALC license in January that I had for only a year and a half, and then had to pay another \$150 for the renewal in July.”

Respondent 23: “I have no doubt that they are performing their duty with no conflict of interest.”

Complainant Questionnaire

Questionnaires were sent to **31** complainants. Twelve responded.

1. Was your complaint filed with the Board of Examiners in Counseling by:

Mail	11	91.7%
Phone	0	0.0%
Fax	0	0.0%
Other	0	0.0%
Unknown	1	8.3%

2. Was receipt of your complaint promptly acknowledged?

Yes	10	83.3%
No	2	16.7%
Unknown	0	0.0%

3. If the answer to Question 2 was yes, approximately how long after you filed your complaint were you contacted by the Board?

Immediately	0	0.0%
Within 10 days	6	54.5%
Within 20 days	0	0.0%
Within 30 days	3	27.3%
More than 30 days	0	0.0%
Did not respond	1	9.1%
Unknown	1	9.1%

One person did not respond to this question.

4. Was the employee who responded to your complaint knowledgeable and courteous?

Knowledgeable	1	8.3%
Courteous	4	33.3%
Both	4	33.3%
Neither	2	16.7%
Unknown	1	8.3%

5. Did the Board communicate the results of investigating your complaint to you?

Yes	7	58.3%
No	5	41.7%
Unknown	0	0.0%

6. Do you think the Board did everything it could to resolve your complaint?

Yes	4	33.3%
No	5	41.7%
Unknown	3	25.0%

7. Were you satisfied with your dealings with the Board?

Yes	4	33.3%
No	6	50.0%
Unknown	2	16.7%

8. Do you have anything else you would like to add to your response?

Respondent 1: “The Commission was a bit confused that no probable cause could be found to bring charges against the individual in question. The claimant we served indicated she did not receive services (therapy) that the Commission paid for (\$4300). The individual (Therapist) whom the complaint was made against refunded the money to the Commission, but still denied wrong-doing. It appears he refunded the money because he could not substantiate charging the Commission for services (therapy) he provided to the claimant. The individuals at the Board of Examiners in Counseling were professional and courteous, and concerned about their profession. While the Commission does not understand their findings, we will defer to their knowledge of their profession and professionals.”

Respondent 3: “I received notice that my complaint had been received. Then I received notice that no complaint was founded, but was not asked to appear before the board nor to produce any of the evidences regarding the "potential" violations. I was disappointed in what I felt was a lack of follow through in investigating.”

Respondent 5: “Yes I have evidence they didn’t even look at. They said they would talk to her and get back to me, They neither spoke to witnesses or listened to my tape. I don't want to remain anonymous I want something done. My Name is [REDACTED] [REDACTED] My number is [REDACTED] [REDACTED] [REDACTED]”

Respondent 7: “I waited for request of the evidence against the therapist and never received it. The only letter I received after acknowledgement of the complaint was a request for a waiver of confidentiality to review my records. However, my evidence against the therapist which included a recording of the therapist disclosing confidential information without a court order or a release from me. Notification of the result of the determination that no disciplinary action was required against the therapist was the next letter I received.”

Respondent 9: “My name is [REDACTED] [REDACTED] and my life was terribly affected by the board's lack of a thorough investigation of [REDACTED] [REDACTED]”

Respondent 10: “After [REDACTED] [REDACTED], my therapist, communicated several times through email and phone calls with my lawyer, [REDACTED], he returned my money, \$1,500. This eliminated the need for the Board to investigate my complaint.”

APPENDICES

SMART Performance Reports

Thursday, November 18, 2010
EBO Form 10

FY 10 SMART Quarterly Performance Report

Page 2 of 3

Basic Agency

Agency: 343 - Counseling, Alabama Board of Examiners in				Program: 653 - PRO AND OCCU LICENSING AND REG								
Organization: -				Activity: -								
Key Goal:												
Goal 1	Resolve 40% of complaints within 180 days of receipt by FY13								Governor's Priority:		4	
Objectives and Quarterly Targets:												
Performance Measures		First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual		
Objectives		Unit of Measure	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
(O1-Efficiency) Percent complaints resolved.		Percent	5	0	8	2	10	0%	15	18.75%	15	31.25%

Item # Notes

O1- The actual objective data for Second Quarter was erroneously submitted as "2". The correct actual objective data information for second quarter is 25%.

Thursday, November 18, 2010
EBO Form 10

FY 10 SMART Quarterly Performance Report

Page 3 of 3

Basic Agency

How have policy decisions and budget determinations made by the governor and the legislature in the fiscal year 2009-10 affected your agency in meeting its desired accomplishments and services?
None. Funding generated through licensure fees.
What administrative improvements did your agency make in fiscal year 2009-10 and what potential improvements do you foresee for future years? Include suggested changes in legislation or administrative procedures which would aid your agency in these improvements.
Continue to limit spending below amount of appropriated funds. No legislative changes anticipated at this time.

FY 11 SMART Quarterly Performance Report

Basic Agency

page 1 of 2

Agency:	343 - Counseling, Alabama Board of Examiners in				Program:	653 - PRO AND OCCU LICENSING AND REG					
Organization:	-				Activity:	-					
Mission:	To protect the welfare and interest of the public receiving mental health counseling services through oversight of statutes regulating licensed counselors and to investigate, review and resolve complaints.										
Workload Measures and Quarterly Projections:											
	First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual		
Workload Measure	Projected	Actual	Projected	Actual*	Projected	Actual*	Projected	Actual*	Projected	Actual*	
W1: Number of license renewals and number of new licenses issued.	75	98	75		350		430		930		
W2: Number of complaints received.	3	5	3		3		3		12		
* Actual workload data is not currently available for this quarter.											

FY 11 SMART Quarterly Performance Report

Basic Agency

Agency: 343 - Counseling, Alabama Board of Examiners in				Program: 653 - PRO AND OCCU LICENSING AND REG								
Organization: -				Activity: -								
Key Goal:												
Goal 1	Resolve 40% complaints within 180 days of receipt by FY13.								Governor's Priority:		4	
Objectives and Quarterly Targets:												
Performance Measures		First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual		
Objectives		Unit of Measure	Target	Actual	Target	Actual*	Target	Actual*	Target	Actual*	Target	Actual*
(O1-Efficiency) Percent complaints resolved		Percent	5	100%	10		15		20		20	
* Actual performance data is not currently available for this quarter.												

Examination Results by Alabama Educational Institutions

Examination Pass/Fail By Academic Institution October 1, 2006 through September 30, 2010				
Academic Institution	Pass	% Pass	Fail	% Fail
Alabama A & M	14	54%	12	46%
Alabama State University	3	27%	8	73%
Auburn University	7	88%	1	12%
Auburn University – Montgomery	9	60%	6	40%
Jacksonville State University	29	41%	42	59%
Troy University – Dothan	14	74%	5	26%
Troy University – Montgomery	11	69%	5	31%
Troy University	15	65%	8	35%
University of Alabama at Birmingham	48	92%	4	8%
University of Alabama	4	57%	3	43%
University of Mobile	4	80%	1	20%
University of Montevallo	6	67%	3	33%
University of North Alabama	7	70%	3	30%
University of South Alabama	10	45%	12	55%
University of West Alabama	2	40%	3	60%
Overall Totals/Percentages	183	61%	116	39%

Statutes

CHAPTER 8A. COUNSELORS

Section 34-8A-1. Board of Examiners in Counseling created; composition; powers and duties.

There is hereby created a board to be known as the Alabama Board of Examiners in Counseling composed of seven members, appointed by the Governor of this state within 60 days after July 18, 1979, in the manner and for the term of office as hereinafter provided. Said board shall perform such duties and have such powers as this chapter prescribes and confers upon it.

(Acts 1979, No. 79-423, p. 649, Section 1.)

Section 34-8A-2. Definitions.

For the purposes of this chapter, unless the context requires otherwise, the following words and phrases shall have the respective meanings ascribed by this section:

(1) Associate licensed counselor. Any person that has been licensed by the board to offer counseling services as defined in this section while under the supervision of a board approved supervisor.

(2) Board. The Alabama Board of Examiners in Counseling.

(3) Counseling services. Those acts and behaviors coming within the private practice of counseling.

(4) Licensed professional counselor. Any person who represents to the public by any title or description of services incorporating the words "licensed professional counselor" or "licensed counselor"; and who offers to render professional counseling services in private practice to individuals, groups, organizations, corporations, institutions, government agencies, or the general public in settings of individual or group practice for a fee, salary, or other compensation, implying licensure and training, experience, or expertise in counseling, and who holds a current, valid license to engage in the private practice of counseling, with the exception of those practitioners listed in Section 34-8A-3.

(5) Private practice of counseling. Rendering or offering to render to individuals, groups, organizations, or the general public counseling services, in settings of individual or group practice, for a fee, salary, or other compensation, involving the application of principles, methods, or procedures of the counseling profession which include, but are not restricted to:

a. Counseling. To render evaluation and therapy that includes, but is not limited to, providing individual counseling, family counseling, marital counseling, group therapy, school counseling, play therapy, rehabilitation counseling, art therapy, human growth and development counseling, couples counseling, chemical abuse or dependency counseling, career counseling, and vocational disability counseling. The use of specific methods, techniques, or modalities within the practice of a licensed professional counselor is restricted to counselors appropriately trained in the use of these methods, techniques, or modalities. A licensed professional counselor or associate licensed counselor may diagnose and develop treatment plans but shall not attempt to diagnose, prescribe for, treat, or advise a client with reference to problems or complaints falling outside the boundaries of counseling services.

b. Appraisal activities. Selecting, administering, scoring, and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics, but shall not include the use of projective techniques in the assessment of personality.

c. Counseling, guidance, and personnel consulting. Interpreting or reporting upon scientific fact or theory in counseling, guidance, and personnel services to provide assistance in solving some current or potential problems of individuals, groups, or organizations.

d. Referral activities. The evaluating of data to identify problems and to determine advisability of referral to other specialists.

e. Research activities. The designing, conducting, and interpreting of research with human subjects.

(6) Provisional license. A one-year, temporary licensure status equal to that of a licensed professional counselor or associate licensed counselor with specified stipulations for establishing substantial equivalency according to subdivision (4) of Section 34-8A-7.

(Acts 1979, No. 79-423, p. 649, Section 2; Act 2000-810, p. 1925, Section 1; Act 2006-566, p. 1314, Section 1; Act 2009-587, p. 1724, Section 1.)

Section 34-8A-3. Construction and application of chapter.

- (a) Nothing in this chapter shall be construed to apply to any of the following:
- (1) The activities, services, and use of an official title on the part of a person employed as a counselor by any federal, state, county, or municipal agency; public or private educational institution; medical personnel in a clinic or hospital that is certified by the Alabama Department of Public Health or any successor to such department or that is accredited by the Joint Commission on Accreditation of Health Care Organizations or any successor to such commission; law practice; or licensed private employment agencies, provided such persons are performing counseling or counseling-related activities within the scope of their employment.
 - (2) The activities and services of a student, intern, or trainee in counseling pursuing a course of study in counseling in a regionally accredited institution of higher learning or training institution, if these activities and services constitute a part of the supervised course of study, provided that such person be designated a counselor intern.
 - (3) The activities and services of a nonresident person rendered not more than 30 days during any year, provided such person is duly authorized to perform such activities and services under the laws of the state or county of his or her residence.
 - (4) The activities and services of qualified members of other professions, such as physicians, psychologists, psychoanalysts, registered nurses, social workers, or ordained or licensed recognized religious practitioners performing counseling consistent with the laws of the state, their training, and any code of ethics of their professions, provided they do not represent themselves by any title or description in the manner prescribed in Section 34-8A-2. Nothing herein shall prohibit religious counselors performing counseling services without remuneration.
 - (5) The activities, services, titles, and descriptions of qualified members of the law profession.
 - (6) The activities, services, titles, and descriptions of persons employed, as professionals or as volunteers, in the practice of counseling for public and private nonprofit organizations or charities.
- (b) Nothing in this chapter shall be construed as permitting counselors licensed under this chapter to administer or prescribe drugs, or in any manner engage in the practice of medicine as defined by the laws of this state.
- (c) Nothing in this chapter shall be construed as permitting a counselor licensed under this chapter to represent himself or herself in any manner to the public as an attorney as defined by the laws of this state.
- (d) Nothing in this chapter shall be construed as permitting a counselor licensed under this chapter to represent himself or herself in any manner to the public as a psychologist as defined by the laws of this state.
- (e) Lecturers from any school, college, agency, or training institution may utilize an academic or research title when invited to present lectures to institutions or organizations.
- (f) Notwithstanding the exemptions provided in this section, those persons who file an application with the board or who are licensed as licensed professional counselors or associate licensed counselors shall comply with the regulations of the board and be subject to the disciplinary provisions of this chapter.

(Acts 1979, No. 79-423, p. 649, Section 3; Act 2000-810, p. 1925, Section 1; Act 2006-566, p. 1314, Section 1.)

Section 34-8A-4. Board of Examiners in Counseling--Creation; membership; Sunset provision.

(a) There is created an Alabama Board of Examiners in Counseling, to consist of seven members who shall be citizens of this state and appointed by the Governor pursuant to the requirements of this section.

(b) Within 30 days from July 18, 1979, the Executive Committee of the Alabama Counseling Association, or its successor organization, shall submit to the Governor a list of qualified candidates for the board. The list shall contain names of at least four citizens from the general public, four qualified counselor educators, and six qualified practicing counselors from which the Governor, within 60 days, shall select the board. The board shall consist of two citizens from the general public, two counselor educators, and three counselors in private practice.

(c) The initial appointments to the board shall be for the following terms: The term of two members is one year, the term of two members is two years, the term of three members is three years.

(d) The professional membership of the board authorized under this section shall be licensed under this chapter, except that the initial professional members shall be members who have been rendering the private practice of counseling services for at least one year, or who have been giving instruction in counseling in a regionally accredited institution of higher learning for at least three years.

(e) The board shall perform those duties and exercise those powers as this chapter prescribes and confers upon it. No member of the board shall be liable to civil action for any act performed in good faith for the performance of his or her duty pursuant to this chapter.

(f) Board members shall be ineligible for reappointment for a period of three years following completion of their terms. Subsequent appointments to the board shall be made by the Governor in the following manner: Not later than October 1, of each year the Executive Committee of the Alabama Counseling Association, or its successor organization, shall submit to the Governor the names of two qualified candidates for the position on the board to be vacated by reason of expiration of term of office. From the two candidates the Governor shall appoint one member not later than January 1, to serve on the board for a term of five years. Every reasonable effort shall be made to insure that one member of the board be a member of a cultural minority. Each board member shall hold office until his or her successor is appointed and assumes office. If the Governor fails to make an appointment by January 1 for a successor to a member whose term has expired, the Executive Committee of the Alabama Counseling Association, or its successor organization, shall select a successor member from among the two qualified candidates nominated to fill the vacancy. Other vacancies occurring in the board shall be filled for the unexpired term by appointment of the Governor from two candidates for each vacancy submitted within 30 days after the vacancy occurs by the Executive Committee of the Alabama Counseling Association, or its successor organization. The appointments shall be made within 45 days after the names of the candidates have been submitted. If the Governor fails to make the appointment within the 45-day period, the Executive Committee of the Alabama Counseling Association, or its successor organization, shall select a replacement member from among the two qualified candidates nominated to fill the unexpired term of a board member. Any board members may be removed by the Governor, after notice and hearing, for incompetence, neglect of duty, malfeasance in office, or moral turpitude. Composition of the board shall always consist of two citizens, two counselor educators, and three counselors in private practice. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. A college or university shall have only one counselor educator

representative as a member of the board at any one time. In addition, no more than one practitioner from the same practice setting or corporation shall be members of the board at any one time.

(g) Immediately and before entering public duties of the office, the members of the board shall take the constitutional oath of office and shall file the oath of office in the office of the Governor, who upon receiving the oath of office shall issue to each member a certificate of appointment. The board shall have available for the Governor or his or her representative detailed reports on proceedings and shall make annual reports in the form as required by the Governor.

(h) The Alabama Board of Examiners in Counseling is subject to the provisions of the Alabama Sunset Law of 1981, and is classified as an enumerated agency pursuant to Section 41-20-3. The board shall automatically terminate on October 1, 2000, and every four years thereafter, unless a bill is passed that it be continued, modified, or reestablished.

(Acts 1979, No. 79-423, p. 649, Section 4; Acts 1997, No. 97-154, p. 196, Section 3; Act 2000-810, p. 1925, Section 1; Act 2008-175, p. 288, Section 3; Act 2009-587, p. 1724, Section 1.)

Section 34-8A-5. Board of Examiners in Counseling--Officers; compensation; meetings; seal; rules and regulations; grants.

(a) The board shall elect annually a chair and a vice chair. Each member shall receive daily compensation as established by the board for each day actively engaged in the duties of the board and the same travel expense allowance as is paid to state employees for travel in the service of the board. At the request of the executive director, a board member may work additional days on behalf of the board. For such activities, the board member shall be compensated at the same daily rate for scheduled board meetings and shall receive the same travel expense allowance as is paid to state employees for travel in the service of the board. The amounts shall in no case exceed funds available to the board. The board shall hold at least one regular meeting each year. Additional meetings may be held at the discretion of the chair or at the written request of any three members of the board. The board shall adopt a seal which shall be affixed to all licenses and certificates issued by the board. The board shall from time to time adopt those rules and regulations as the board may deem necessary for the performance of the duties of the board. The board may appoint and employ a qualified person possessing a high degree of professional skill, not subject to the State Merit System, to serve as executive director. The compensation of the executive director shall be established by the board. Four members of the board shall be empowered to accept grants from foundations and institutions to carry on the functions of the board.

(b) Notwithstanding any other contrary provision of law, the executive director employed by the board may be a practicing licensee of the board.

(Acts 1979, No. 79-423, p. 649, Section 5; Acts 1997, No. 97-154, p. 196, Section 3; Act 2004-69, p. 86, Section 3; Act 2006-566, p. 1314, Section 1.)

Section 34-8A-6. Inactive status; collection and disposition of fees, etc.; reactivation; renewal.

(a) A licensee may request that the board designate his or her license with inactive status at any point prior to the date of renewal. Granting inactive status to a licensee revokes all privileges associated with this chapter until reactivation is requested by the licensee. Procedures for reactivating a license for practice status will be established by the board.

(b) All fees from applicants seeking licensing or certification for private practice under this chapter, and all license, certificate, or renewal fees received under this chapter shall be paid to the board. No part of any fee shall be returnable under any conditions. All fees collected in this manner plus renewal fees and all gifts or grants shall be deposited in the State Treasury to the credit of the board.

There is appropriated from the Treasury funds to the credit of the board to be used for printing, travel expenses of the board, and for other necessary expenses as are necessary to carry out the provisions of this chapter. Expenses shall be paid under the written direction of the chair of the board, or designee of the chair of the board, in accordance with normal state procedure.

(c) The board is required to charge an application fee to be determined by the board. In addition to the application fee, the board may establish by rule a reasonable application package fee, supervising counselor approval processing fee, examination fee, provisional licensure fee, licensure reactivation fee, and fee for written verification of licensee status to a third party. The board shall determine and collect additional reasonable fees in amounts determined by the board.

(d) Every licensed professional counselor engaging in private practice in this state is required to pay biennially to the board by August 1 a renewal fee to be determined by the board. The chair thereupon shall issue a document renewing his or her license for a term of two years. The license of any licensed professional counselor who fails to have his or her license renewed biennially by August 1 shall lapse. Failure to renew a license, however, shall not deprive the licensed professional counselor of the right of renewal thereafter. A lapsed license may be renewed within a period of two years after lapse upon payment of fees in arrears, or thereafter, upon payment of a renewal fee as determined by the board. Any licensed professional counselor whose license has lapsed beyond six years must reapply under the current regulations for initial licensure.

(e) An associate licensed counselor engaging in private practice under the supervision of a supervising counselor in this state is required to pay annually to the board by the anniversary of his or her initial license issuance date a renewal fee to be determined by the board. The chair thereupon shall issue a document renewing the license for a term of one year. The license of any associate licensed counselor who fails to have his or her license renewed annually by the anniversary of the initial license issuance date shall lapse. Failure to renew a license, however, shall not deprive the associate licensed counselor of the right of renewal thereafter. A lapsed license may be renewed within a period of one year after lapse upon payment of fees in arrears or thereafter, upon payment of a renewal fee as determined by the board. Any associate licensed counselor whose license has lapsed beyond six years must reapply under the current regulations for initial licensure.

(Acts 1979, No. 79-423, p. 649, Section 6; Acts 1997, No. 97-154, p. 196, Section 3; Act 2000-810, p. 1925, Section 1; Act 2006-566, p. 1314, Section 1; Act 2009-587, p. 1724, Section 1.)

Section 34-8A-7. Qualifications for licensed professional counselor; specialty designation.

The board shall issue a license as a licensed professional counselor to each applicant who files an application upon a form and in a manner as the board prescribes, accompanied by a fee as is required in this chapter, and who furnishes satisfactory evidence of the following to the board:

- (1) The applicant is at least 19 years of age.
- (2) The applicant is of good moral character.
- (3) The applicant is not in violation of any of the provisions of this chapter and the rules and regulations adopted hereunder.
- (4) The applicant has received a master's degree from a regionally accredited institution of higher learning which is primarily professional counseling in content based on national standards, or the substantial equivalent in both subject matter and extent of training. The board shall use the standards of nationally recognized professional counseling associations as guides in establishing the standards for counselor licensure.
- (5) The applicant submits documentation of completion of 3,000 hours of supervised experience in professional counseling acceptable to the board. An applicant may subtract 1,000 hours of the required professional experience for every 15 graduate semester hours obtained beyond the master's

degree, provided that those hours are clearly related to the field of professional counseling and are acceptable to the board. In no case may the applicant have less than 1,000 hours of the required professional supervised experience.

(6) The applicant demonstrates competence and knowledge in professional counseling by passing an examination, as the board prescribes. A specialty designation may be added upon demonstration to the board that the applicant has met the recognized minimum standards as established by nationally recognized certification agencies. Upon successful passage of an examination, and upon receipt of credentials from certifying agencies the board may, by a majority of the board members present and voting, consider the credentials adequate evidence of professional competence and recommend to the chair of the board that a license with appropriate specialty designation, if any, be approved. A licensed professional counselor cannot claim or advertise a counseling specialty unless the qualifications of that specialty have been met and have been approved by the board.

(7) The applicant is a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government.

(Acts 1979, No. 79-423, p. 649, Section 7; Acts 1997, No. 97-154, p. 196, Section 3; Act 2000-810, p. 1925, Section 1; Act 2006-566, p. 1314, Section 1; Act 2008-175, p. 288, Section 3.)

Section 34-8A-8. Qualifications for associate licensed counselor.

The board shall issue a license as an associate licensed counselor to each applicant who files an application upon a form and in such manner as the board prescribes accompanied by such fees as are required by this chapter, and who furnishes satisfactory evidence of the following to the board:

(1) The applicant has complied with provisions outlined in subdivisions (1), (2), (3), and (4) of Section 34-8A-7;

(2) The associate licensed counselor may not practice without direct supervision by a licensed professional counselor. The plan for supervision of the associate licensed counselor is to be approved by the board prior to any actual performance of counseling on the part of the associate licensed counselor;

(3) Any associate licensed counselor after meeting the requirements specified in subdivisions (5) and (6) of Section 34-8A-7 may petition the board for licensure as a professional counselor.

(Acts 1979, No. 79-423, p. 649, Section 8; Act 2006-566, p. 1314, Section 1.)

Section 34-8A-9. Application investigation; acceptance or rejection.

After investigation of the application and other evidence submitted, the board shall notify each applicant that the application and evidence submitted is satisfactory and accepted or unsatisfactory and rejected. If rejected, the notice shall state the reasons for such rejection.

(Acts 1979, No. 79-423, p. 649, Section 9; Act 2006-566, p. 1314, Section 1.)

Section 34-8A-10. Examination.

The place of examination shall be designated in advance by the board, and such examination shall be given annually at such time and place and under the supervision as the board may determine, and specifically at such other times as in the opinion of the board the number of applicants warrants.

(Acts 1979, No. 79-423, p. 649, Section 10.)

Section 34-8A-11. Focus of examination.

The examination shall require that the applicant demonstrate his or her knowledge and application thereof in those areas deemed relevant to his or her specialty and those services he or she intends to offer to the public.

(Acts 1979, No. 79-423, p. 649, Section 11; Act 2006-566, p. 1314, Section 1.)

Section 34-8A-12. Reexamination.

In the event an applicant fails to receive a passing grade on the entire examination, the applicant may register and shall be allowed to take a subsequent examination.

(Acts 1979, No. 79-423, p. 649, Section 12; Act 2000-810, p. 1925, Section 1; Act 2006-566, p. 1314, Section 1.)

Section 34-8A-13. Preservation of examination scores.

The board is required to preserve an examination score of each candidate, as part of its records for a period of two years following the date of examination.

(Acts 1979, No. 79-423, p. 649, Section 13; Act 2006-566, p. 1314, Section 1.)

Section 34-8A-14. Renewal; fees; continuing education; practice in a specialty.

(a) Counselors licensed as a licensed professional counselor by the board shall be required to submit biennially at the time of renewal a license renewal fee to be established by the board. No license shall be renewed unless the renewal request is accompanied by evidence satisfactory to the board of the completion during the previous 24 months of relevant professional and continued educational experience.

(b) Counselors licensed as an associate licensed counselor by the board shall be required to submit annually at the time of renewal a license renewal fee to be established by the board. No license shall be renewed unless the renewal request is accompanied by evidence satisfactory to the board of the completion during the previous 12 months of relevant professional and continued educational experience.

(c) If any professional counselor or counselor associate duly licensed under this chapter, by virtue of additional training and experience, is qualified to practice in a specialty other than that for which he or she was deemed competent at the time of initial licensing, and wishes to offer such service under the provisions of this chapter, he or she is required to submit at the time of biennial renewal of licenses, additional credentials and he or she is to be given the opportunity to demonstrate his or her knowledge and application thereof in areas deemed relevant to his or her specialty. This procedure is considered a necessary part of the renewal process. No charge in addition to the renewal fee is levied.

(Acts 1979, No. 79-423, p. 649, Section 14; Act 2006-566, p. 1314, Section 1; Act 2009-587, p. 1724, Section 1.)

Section 34-8A-15. Applicants qualified out-of-state; provisional license.

Upon application accompanied by fee the board may issue a license to any person who furnishes upon a form and in such manner as the board prescribes, evidence satisfactory to the board that he or she is licensed as a professional counselor or as a counselor associate by another state, territorial possession

of the United States, District of Columbia, or Commonwealth of Puerto Rico if the requirements for such licensure or certification are substantially equivalent to those of this chapter.

In the event the board determines that requirements are not substantially equivalent to those of this chapter, the board may issue a provisional license. A provisional license may be renewed for an additional one-year period. Rules concerning the qualifications for provisional licensure shall be established by the board.

(Acts 1979, No. 79-423, p. 649, Section 15; Act 2006-566, p. 1314, Section 1.)

Section 34-8A-16. Disciplinary actions; discovery.

(a) The board by a majority of the board members present and voting is authorized to withhold, deny, revoke, or suspend, any license or certificate issued or applied for in accordance with this chapter or otherwise discipline a licensed professional counselor or associate licensed counselor upon proof by proper hearing that the applicant, licensed professional counselor, or associate licensed counselor:

(1) Has been convicted, within or without the jurisdiction of this state, of a felony, or any offense involving moral turpitude, the record of conviction being conclusive evidence thereof.

(2) Has violated the current code of ethics adopted by the board.

(3) Is using any narcotic or any alcoholic beverage to an extent or in a manner dangerous to any other person or the public, or to an extent that it impairs his or her ability to perform the work of a licensed professional counselor or associate licensed counselor with safety to the public.

(4) Has impersonated another person holding a professional counselor license or associate licensed counselor license or allowed another person to use his or her license or certificate.

(5) Has used fraud or deception in applying for a license or certificate or in taking an examination provided for in this chapter.

(6) Has allowed his or her name or license or certificate issued under this chapter to be used in connection with any person or persons who perform counseling services in private practice outside the area of their training, experience, or competence.

(7) Is legally adjudicated mentally incompetent, the record of the adjudication being conclusive evidence thereof.

(8) Has willfully or negligently violated any of the provisions of this chapter or any of the rules and regulations adopted thereunder.

(9) Has been practicing as a counselor without a license.

(b)(1) Notice of denial, revocation, suspension, or disciplinary action is required to be sent by registered mail or personal service setting forth the particular reasons for the proposed action and fixing a date not less than 30 days nor more than 60 days from the date of the mailing or service, at which time the applicant, licentiate, or associate shall be given an opportunity for a prompt and fair hearing. The written notice shall be sent to the last known address of the person, but the nonappearance of the person shall not prevent the hearing. The hearing shall be conducted by the board by means of sworn, recorded testimony. Parties have the right to be represented by counsel and to conduct cross-examination of witnesses.

(2) On the basis of any hearing or upon default of applicant, licentiate, or associate, the board shall make a determination specifying its findings of fact and conclusions of law. A copy of the determination shall be sent by registered mail or served personally upon the applicant, licentiate, or associate. The decision of the board denying, revoking, or suspending the license or certificate shall become final 30 days after so mailed or served unless within that period the applicant, licentiate, or associate appeals the decision to the courts of this state in the same manner and subject to the same powers and conditions as now provided by law in regard to rulings, orders, and findings of other quasi-judicial bodies in Alabama, where not otherwise specifically provided. No appeal, while

pending appropriate court action, shall supersede the denial, revocation, or suspension. All proceedings and evidence, together with exhibits presented at the hearings before the board in the event of appeal, are admissible in evidence in the court.

(3) Every order and judgment of the board shall take effect immediately on its promulgation unless the board in the order or judgment fixes a probationary period for applicant, licentiate, or associate. The order and judgment shall continue in effect unless upon appeal the courts by proper order or decree terminate it earlier. The board may make public its order and judgments in the manner and form as it deems proper.

(4) The board may suspend the license of a licensed professional counselor or of an associate licensed counselor for a period of one year. At the end of this period, the board shall reevaluate the suspension and may recommend to the chair the extension of the suspension not to exceed one additional year, the reinstatement, or revocation of the license. A person whose license has been revoked under this section may apply for reinstatement after a period of not less than three years from the date the denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend reinstatement.

(c) In addition to any other disciplinary action, the board may levy and collect administrative fines for violations of this chapter or the rules or regulations of the board in an amount not to exceed one thousand dollars (\$1,000) for each violation. In addition to fines, the board may assess all legal costs for the preparation and execution of a disciplinary action against a licensee.

(d) The board may issue written reprimands to licensees as an alternative to a formal hearing before the board. The board shall determine the procedures for a written reprimand that shall authorize the investigative committee and members of the board to deliberate and issue written reprimands. No less than two members of the board, along with the investigative committee, shall participate in deliberations leading to a written reprimand. All other members of the board shall remain available for possible appeal. The written reprimand shall not be published by the board, unless required by law, though a copy of the reprimand will be entered into the permanent file of the licensee for a period of time determined by the investigative committee and the members of the board issuing the reprimand. Licensees wishing to appeal the written reprimand may demand a formal hearing before the board members who were not involved in the original reprimand decision. The result of such an appeal may lead to withdrawal of the reprimand, retention of the reprimand, or imposition of additional penalties on the licensee by the board.

(e)(1) Except as provided in subdivisions (2), (3), and (4), all records, reports, documents, photographs, and information contained in complaint and investigation files shall be confidential, shall not be a public record, and shall not be available for court subpoena or for discovery in civil proceedings.

(2) The board shall release all of the following information to the public regarding complaint files and disciplinary action proceedings:

- a. A settlement agreement adopted and ratified by the board that closes a complaint file and represents the board's final decision in the disciplinary action proceedings.
- b. The formal charges or orders to show cause against an associate licensed counselor or a licensed professional counselor filed by the board's executive director and any amendments thereto.
- c. The board's final decision in disciplinary action proceedings entered after a formal disciplinary action hearing.

(3) Notwithstanding any other provisions of this subsection, all complaint and investigation files shall be available to the Department of Examiners of Public Accounts for the purposes of any audit, examination, or review authorized by law.

(4) A party to any civil or administrative proceeding may discover documents, reports, or other tangible items under Act 2009-587 upon a showing that the party seeking discovery has need of the

materials in the preparation of the party's case and that party is unable without undue hardship and expense to obtain the substantial equivalent of the documents, reports, or other tangible items by other means.

(Acts 1979, No. 79-423, p. 649, Section 16; Acts 1997, No. 97-154, p. 196, Section 3; Act 2000-810, p. 1925, Section 1; Act 2006-566, p. 1314, Section 1; Act 2009-587, p. 1724, Section 1; Act 2010-545, Section 1.)

Section 34-8A-17. Injunction, mandamus, etc.

When it shall appear to the board that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, the board in its discretion and in its own name may bring an action in any court of competent jurisdiction to enjoin such acts or practices, and to enforce compliance with this chapter or any rule or order hereunder, regardless of whether criminal proceedings have been or may be instituted. Upon a proper showing, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted.

(Acts 1979, No. 79-423, p. 649, Section 17.)

Section 34-8A-18. Penalties; review; disciplinary oversight of licensees; legal counsel.

(a) In addition to any other powers and functions which may be conferred upon it by law, the board may issue an order assessing a civil penalty not less than five hundred dollars (\$500) and not more than five thousand dollars (\$5,000) against any person who holds himself or herself out to the public as a licensed professional counselor or associate licensed counselor or who uses any title or description as prescribed in subdivisions (1) and (4) of Section 34-8A-2, or who shall engage in the private practice of counseling and does not then possess in full force and virtue a valid license to engage in private practice as a licensed professional counselor or associate licensed counselor under this chapter.

(b) In determining the amount of any penalty, the board shall consider the seriousness of the violation, including any threat to the health, safety, or welfare of the public, the unlawful gain or economic benefit gained by the violation, the person's history of previous violations, and the person's efforts to mitigate and comply with this chapter.

(c) Civil penalties assessed in an order under this section and not paid within 60 days from the effective date of the order may be recovered in a civil action brought by the board in the Circuit Court of Montgomery County or the county in which the defendant does business.

(d) Judicial review of an order entered by the board under this section shall be conducted in accordance with the pertinent provisions for the judicial review of contested cases as provided under the Alabama Administrative Procedure Act.

(e) The board shall exercise its jurisdiction for disciplinary oversight of licensees during the period of their licensure. The board shall not accept voluntary surrender of a license on the part of a licensee to avoid possible disciplinary actions by the board. Securing inactive status of a license shall not negate jurisdiction of the board for a licensee's actions during any period of active licensure. If a former licensee or a licensee with inactive status is found to be in violation of the relevant state law or regulations, a public announcement of the decision of the board shall be proffered in a manner to be determined by the board.

(f) The Attorney General shall be the attorney of the board, but the board may employ other counsel.

(Acts 1979, No. 79-423, p. 649, Section 17; Act 2006-566, p. 1314, Section 1.)

Section 34-8A-19. Board's quasi-judicial authority; sole licensing authority.

The Alabama Board of Examiners in Counseling shall have authority to administer oaths, to summon witnesses, to issue subpoenas, and to take testimony in all matters relating to its duties. The board shall be the sole agency in this state empowered to certify concerning competence in the private practice of counseling, and the sole board empowered to license for the private practice of counseling. (Acts 1979, No. 79-423, p. 649, Section 17; Act 2006-566, p. 1314, Section 1.)

Section 34-8A-20. All qualified applicants licensed; signatures.

The Alabama Board of Examiners in Counseling shall license to engage in private practice all persons who shall present satisfactory evidence of attainments and qualifications under provisions of this chapter and the rules and regulations of the board. Such licensure shall be signed by the Chairman of the Board of Examiners in Counseling under the board's adopted seal. (Acts 1979, No. 79-423, p. 649, Section 17.)

Section 34-8A-21. Privileged communications and confidential relations between practitioner and client.

For the purpose of this chapter, the confidential relations and communications between licensed professional counselor or certified counselor associate and client are placed upon the same basis as those provided by law between attorney and client, and nothing in this chapter shall be construed to require any such privileged communication to be disclosed. (Acts 1979, No. 79-423, p. 649, Section 18.)

Section 34-8A-22. Code of ethics.

The Alabama Board of Examiners in Counseling shall adopt a code of ethics to govern appropriate practice or behavior as referred to in Section 34-8A-16 and Section 34-8A-17 and shall file such code with the Secretary of State within 30 days prior to effective date of such code. (Acts 1979, No. 79-423, p. 649, Section 19.)

Section 34-8A-23. Waiver of requirement for prior practitioners.

For a period of one year from July 25, 1983, the board shall waive the requirements of subdivisions (7) and (8) of Section 34-8A-7, and shall grant the appropriate license upon payment of the required fee to any person submitting an application for licensure and proof of practice to the board who is qualified by experience to practice counseling, and who was engaged in such private practice of counseling as of July 18, 1979 in Alabama. Proof of private practice shall be verified by a valid business license in force on or before July 18, 1979 and financial documents which clearly indicate that a fee, monetary or otherwise, was charged for counseling services rendered. The Board of Examiners in Counseling shall be required to provide at least one legal notice of these provisions in the daily newspapers of this state. (Acts 1979, No. 79-423, p. 649, Section 22; Acts 1983, No. 83-591, p. 924, Section 1.)

Section 34-8A-24. Liability.

There shall be no monetary liability on the part of, and no cause of action shall arise against a licensed professional counselor or associate licensed counselor in failing to warn of and protect from a client who has communicated to the licensed professional counselor or associate licensed counselor a serious threat of physical violence against a reasonably identifiable victim or victims. If there is a duty to warn and protect under the limited circumstances specified above, the duty shall be discharged by the licensed professional counselor or associate licensed counselor making reasonable efforts to communicate the threat to the victim or victims and to a law enforcement agency. No monetary liability and no cause of action may arise against a licensed professional counselor or associate licensed counselor who breaches confidentiality or privileged communication in the discharge of their duty as specified in this chapter.

(Act 2000-810, p. 1925, Section 2.)

Board Members

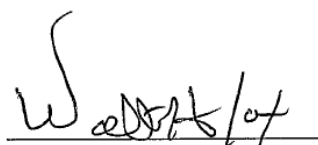


Alabama Board of Examiners in Counseling

950 22nd Street North, Suite 765 • Birmingham, Alabama 35203 • (205) 458-8716

ALABAMA BOARD OF EXAMINERS IN COUNSELING BOARD MEMBERS

<u>NAME</u>	<u>CITY</u>	<u>TERM</u>
Dr. Charles L. Guest, Jr.	Mobile	8/8/07 – 1/1/12
Dr. Eddie Clark	Montgomery	11/21/08 – 1/1/13
Dr. Paul F. Hard	Montgomery	8/8/07 – 1/1/12
Mr. Kim Shelton	Demopolis	11/21/08 – 1/1/13
Mrs. Nancy W. Thomas	Montgomery	1/1/10 – 1/1/15
Dr. I. Hoyt Washington	Boaz	1/1/10 – 1/1/15
Mr. Gary A. Williams	Birmingham	11/21/08 – 1/1/13


Walter H. Cox, Ed.D.
Executive Officer

BOARD RESPONSE TO SIGNIFICANT ISSUES



Alabama Board of Examiners in Counseling

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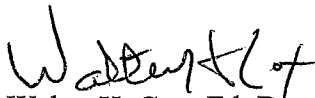
June 8, 2011

John E. Norris
Director
Operational Division
Department of Examiners of Public Accounts
P. O. Box 302251
Montgomery, AL 36130-2251

Dear Mr. Norris:

I wish to submit the accompanying document in response to the report from your office to the Sunset Committee. You will note that I have provided "BOARD RESPONSES" following the narrative for each "Significant Issue" in your report. As requested, I am submitting this report in an electronic format and before June 13, 2011. Please contact me if you need additional information from this office. Thank you for your attention in this matter.

Sincerely,


Walter H. Cox, Ed. D.
Executive Officer

SIGNIFICANT ISSUES

2011-01 The percentage of students at four of the fifteen Alabama universities failing the licensing examination for counseling ranged from 55% to 73%. Alabama State University's failure rate over the last four years was 73% (8 of 11 examinations failed); Jacksonville State University's failure rate over the same period was 59% (42 of 71 examinations failed); the University of South Alabama's failure rate over the same period was 55% (12 of 22 examinations failed), and the University of West Alabama failure rate over the same period was 60% (3 of 5 examinations failed).

BOARD RESPONSE:

The Alabama Board of Examiners in Counseling (ABEC) establishes an examination for licensure purposes. The licensure examination designated by the ABEC is a standardized national examination developed and administered by the National Board for Certified Counselors, Inc. (NBCC). This examination is used by the majority of counselor licensure boards throughout the U.S., according to reports from the American Association of State Counseling Boards.

Applicants for licensure by the ABEC are reviewed and recommended for examination by the NBCC based on a standardized curriculum required of all licensees. The ABEC reviews any requests for accommodations and supports all requests that comply with the Americans with Disabilities Act (ADA) guidelines. Accommodations are made by NBCC since the ABEC is not involved in any phase of administration, scoring, or reporting of NBCC examination scores. The ABEC only receives scores and reviews examinee scores on the NBCC examination.

This curriculum for the NBCC is well established for all faculty in counselor education programs to adopt and implement based on their institutional decisions. Because the ABEC has no part in the implementation or instructional delivery of this curriculum at an academic institution, it can offer no remedy or comment concerning performance on the NBCC examination of graduates from the institutions noted in this item.

2011-02 The responses from licensees to the question 'Do you think any of the Board's laws, rules, and policies are an unnecessary restriction on the practice of your profession?' indicate licensees do believe there are unnecessary restrictions on the practice of counseling. Nine of thirty-eight respondents (23.7%) answered 'yes' to this question. Nine respondents made comments. Most of the comments (4 of 9) were directed at the requirement of face-to-face continuing education. **The responses from licensees to the question 'Do you think any of the Board's requirements are irrelevant to the competent practice of your profession?' indicate licensees do believe some requirements are irrelevant to the competent practice of the profession.** Nine of thirty-eight respondents (23.7%) answered 'yes' to this question. Eight respondents made comments of which three were directed at the requirement of face-to-face continuing education.

By rules 255-X-7-.01 (e) for the licensed professional counselor and 255-X-7-.02 (e) for the association licensed counselor, the board requires a minimum of 75% of the continuing education activities be real-time participation either by actual presence of the licensee or use of interactive technology by which the licensee can participate as the activity occurs. Recorded presentations, reading, and on-line study do not qualify as real-time participation.

BOARD RESPONSE:

The data regarding whether the ABEC "laws, rules and policies are an unnecessary restriction on the practice of your profession" are reported as "Nine of thirty-eight respondents answered 'yes' to this question." More specifically, 4 of 38 respondents specifically answered this question in the affirmative *and* specified their concern was "...the requirement of face-to-face continuing education." No data are supplied regarding the specific concern of the remaining 5 of 38 respondents who answered the question in the affirmative.

The data regarding whether the ABEC "requirements are irrelevant to the competent practice of your profession" are reported as "Nine of thirty-eight respondents answered 'yes' to this question." More specifically, 3 of 38 respondents specifically answered this question in the affirmative *and* specified their concern was "...the requirement of face-to-face continuing education." No data are supplied regarding the specific concern of the remaining 6 of 38 respondents who answered the question in the affirmative.

The citation of 255-X-7-.01 (4)(e) and 255-X-7.02 (3)(e) in the report is an accurate summary of the content of the Administrative Code. For purposes of the ABEC response, however, the verbatim of the regulation is provided for reference in following comments:

(e) Real-Time Participation in continuing Education Activities. Effective August 1, 2011, a minimum of seventy-five percent (75%) of the continuing education activities required for any licensure renewal period must consist of real-time participation in seminars, classes, workshops, presentations, training programs, or similar activities. Such real-time participation must involve licensee presence in the location of the activity as it occurs or use of interactive technology by the licensee for the activity as it occurs. Self-contained activities (e.g., recorded presentations, reading, online study) that do not feature opportunities for dialogue and interaction for the licensee as the activity occurs do not qualify as real-time participation in continuing education.

The ABEC pursued this matter for over two years *prior to proposing* the regulatory change. On July 16, 2009, notice of an Intended Action was filed with Legislative Reference Service. On July 30, 2009, the proposed regulatory change was added to the ABEC website for public review. On July 31, 2009, notice of the Intended Action was published in the *Alabama Administrative Monthly*. On or about August 3, 2009, all licensees were informed of the proposed revision via postcard to their current address and directed to the ABEC website to review the proposed revision. Additionally, this correspondence to all licensees noted that the public hearing on the matter would be held on September 18, 2009 and informed that they could attend the hearing should they wish. The public hearing concerning this proposal was held on September 18, 2009. Several licensees appeared at the hearing and some written responses were submitted. However, *no commentary was received in opposition to the proposed adoption of the*

“real time” regulation. Rather, all comments were in regard to proposed changes to the *Code of Ethics and Standards of Practice* for the ABEC. The ABEC adopted the proposed regulatory change on September 18, 2009, the certification for rule change was sent to the Legislative Reference Service on September 23, 2009, and the regulation became effective on November 2, 2009. This chronology is *significant and critical* in this matter.

Additionally, the ABEC wishes to clarify that the phrase “face-to-face” *does not appear in the regulation language.* Further, the ABEC wishes to clarify that electronic off-site participation in activities through the “...use of interactive technology by the licensee for the activity as it occurs” is an *acceptable and qualifying real-time activity under the regulation.*

Unfortunate but somewhat prevalent misunderstandings of this regulation have emerged among licensees suggesting this revision occurred in 2010 or even 2011, that it was a matter of fiat by the ABEC, that it requires licensees to attend conferences, and that online media cannot be applied for continuing education. The ABEC has made and will continue its efforts to inform licensees of both the chronology and the language/requirements for this 2009 regulatory revision.

As a final comment, this proposed regulatory change began as an initiative from a former *citizen member* of the ABEC and was endorsed unanimously by the ABEC prior to its proposed introduction. The ABEC is also informed that the states of Maryland, Minnesota, and Oregon have taken steps to promote professional development through interaction with peers rather than through isolated independent study.

2011-03 The response from licensees to the question ‘What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board doing to address the issue(s)?’ indicate licensees are concerned about the need of insurance providers to recognize, accept, and make payment for the services of counselors same as other health professionals. Eleven of thirty-eight respondents (29%) made comments regarding reimbursement of third party payments, insurance reimbursement, and Medicaid reimbursements. One respondent mentioned the need of a social worker, psychologist or psychiatrist to sign off on the session before insurance would pay for the service. This respondent also stated there is a need for legislation and to work with insurance companies to recognize the professional nature of the therapy provided as mental health treatment and to require or encourage insurance companies to reimburse for services provided by an ALC/LPC Counselor.

BOARD RESPONSE:

Each of the previous audit reports concerning the ABEC has featured licensee responses related to “third-party payments” for professional services. While such concerns exist for licensees, the mission of the ABEC is public protection and professional oversight. Issues of economic concern and exclusion are matters best addressed by advocacy groups, such as the Alabama Counseling Association, who represent their membership for legislative causes. The ABEC has been adamant in its reticence to participate in such matters in order to avoid blurring the boundaries between public protection and practitioner advocacy that would potentially compromise its perceived legitimacy with the public.

2011-04 The response from complainants to the question 'Did the Board communicate the results of investigating your complaint to you?' indicates the board did not routinely advise the complainant of the results of the investigation. Five of twelve responding complainants (41.7%) answered 'no' to this question. According to board staff, the complainant is notified of the results of the board's actions by letter when the case is closed, which states that board has taken necessary action or finds no cause and case has been closed. Board records indicate that notification letters are sent.

BOARD RESPONSE:

Each of the previous audit reports concerning the ABEC has featured comments reflecting dissatisfaction on the part of complainants who disagree with investigations that do not affirm their allegations. All procedures are rigorously and uniformly followed for all investigations. Many allegations are founded in child-custody decisions wherein the court has ruled against the complainant. While complainant dissatisfaction is unavoidable, the ABEC works very closely with legal counsel from the Office of the Attorney General to scrutinize probable cause in allegations and *only* takes actions to proceed to hearings or to close cases based on the recommendation of legal counsel.

STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES

There were no prior findings/significant issues.